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PO BOX 573
LA JOLLA CA 92038-0573

In re Application of
WOLF, ERICH H. et al.
Application No. 10/823,941
Filed: April 14, 2004
Attorney Docket No. 70830.01

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DECISION ON PETITION

This is a decision on the Petition, received in the United States Patent & Trademark Office (USPTO) on October 25, 2006, which is being treated as a Petition To Withdraw Holding of Abandonment under 37CFR 1.181.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) due mailed June 23, 2006. The Notice of Abandonment, mailed on October 4, 2006 indicates, "The submitted fee of \$300 is insufficient. A balance of \$700 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on July 7, 2006, authorizing that the Issue Fee and the Publication Fee be charged to Deposit Account No. 50-2274. On July 7, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 Office of Petitions
 P O Box 1450
 Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 163.



(s) Nina D. Motley
Quality Operations Assistant
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